IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.19 OF 2003
IN
SUMMARY SUIT NO.3230 OF 2002

UTI Bank Limited ...Plaintiff
Vs.
Shri Vikas Patil ...Defendant

Mr.Prakash Ganwani i/b. M/S.V.Deshpande & Co. for Plaintiff

Mr.Harshad Mehta i/b. Ms. N.V.Bari for Defendant

CORAM: D.G. DESHPANDE,J.
DATED: 23RD NOVEMBER, 2004

P.C.

1. Heard Advocates for the Plaintiff and the Defendant. Defendant was given certain facilities by the Plaintiff Bank against the pledge of shares, he operated the account for quite some times, depositing the amounts in that and withdrawing from the same. He wrote three letters to the Plaintiff i.e. on 3.8.2000 expressing his inability to operate the account and requesting the Bank to sell the shares. Secondly in that regard on 9.8.2000 and ultimately thirdly on 15.1.2001. The Bank however, sold the shares of the Plaintiff in October, 2001. That according to the Defendant the prices of the shares has crashed resulting in huge loss to the Defendant. In reply to the claim of the Plaintiff the Defendant has come up with the specific case that the prices of the shares which were pledged by him were high or the best during

the period from 15.1.2001 to 31.1.2001. The particulars of which have been given by him in his affidavit in reply Exhibit-D and according to him if his shares were sold on any of these dates between 15.1.2001 to 31.1.2001 the shares would have fetched more than what was due to the Bank. But the Plaintiff Bank according to him either deliberately or negligently sold the shares in October, 2001 and caused loss to him. Therefore, according to him there is good defence available and unconditional relief is required to be granted to him.

2. Counsel for the Plaintiff on the other hand contended that so far as third letter of Defendant is concerned the Defendant has not annexed any documents showing the prices of the shares at that time. Further according to him the Bank was not required to sell the shares in August, 2000 as margin required as per agreement was being maintained by the Defendant and he was still operating the account. The same argument is advanced regarding other letter dated 9.8. 2000.

3. However, the fact remains that inspite of three letters written by the Defendant expressing inability to operate the account and requesting Bank to sell the shares and to credit the proceeds to the said account the Bank did not sell the shares at the time when the prices were high as per Exhibit-D

therefore, this is a case where Defendant has strong defence unconditional leave to Defendant is granted.

. Summons for Judgment is disposed of.

4. The suit to be transferred to the list of Commercial Causes. Written statement or points of defence to be filed within a period of 12 weeks from today and Affidavit of documents or list of documents within two weeks thereafter. Discovery or inspection of documents within two weeks thereafter. Suit to be placed on regular board for hearing thereafter.

. C.C. expedited.

******